

**PUTNAM COUNTY COMMISSION**

**REPORT TO**  
**ETHICS COMMITTEE**

**JEFFREY G. JONES**  
Putnam County Attorney

**January 7, 2013**

# REPORT TO ETHICS COMMITTEE

In my time as County Attorney, I have been involved with the process as the County has dealt with the resignations of County officials, the deaths of office holders, controversies that have pitted teachers/School Board/County Commission against each other, as well as other types of complications involving county government. In spite of all the matters that our County has worked through over the years, the present situation presents a unique controversy that I do not recall the County ever having to face. This controversy has quite literally split the County Commission.

As members of the Ethics Committee will recall, at the outset, I disclosed to the Committee that I have a number of conflicts of interest in conducting the investigation that was requested of me. I have obtained permission from each of the individuals to reveal my conflicts.

Before I give this report, I am going to make these disclosures again. In regards to the Commissioners who met on the Saturday morning in question, as many of you know, I am close to Commissioner Jim Martin. Jim Martin and I ride motorcycles together, and he is a good friend. I have represented him individually in the past.

In regards to the Commissioners that signed the complaint, I have known Commissioner Anna Ruth Burroughs since I was in high school. When I worked at Eastwood Food Market as a stock clerk, I used to put groceries in her car. All of the employees of the store loved Anna Ruth Burroughs, and I still do. For a number of years, she has been a good friend, and I have represented her individually as well.

One of the members of the Ethics Committee, Jere Mason, is a good friend of mine. I have represented Jere individually. Jere owns J & J Cycles in Cookeville. He has worked on my motorcycles for years. In fact, I just bought a motorcycle from Jere for my son.

I made it known to the Ethics Committee from the very start that I had these conflicts. But I also assured the Ethics Committee, if I was called to look into this matter, I would not let these conflicts of interest interfere with my duty as County Attorney. I must say this however. While I appreciate the Ethics Committee's faith in my professionalism, this has not been an easy task.

## ETHICS COMMITTEE

The Putnam County Code of Ethics provides for the appointment of a five-person committee to review ethical complaints regarding County officials and County employees. A complaint regarding violation of the Putnam County Code of Ethics or of any violation of state law governing ethical conduct is to be directed to the chair of the Ethics Committee. Complaints are to be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based. When Wayne Nabors, the Putnam County Clerk, informed me he had

received a letter of complaint dated September 6, 2012, I suggested it be forwarded to the Chairman of the Ethics Committee as required by the policy.

Once receiving a complaint, the County Ethics Committee is then to investigate any credible complaint against an official or employee charging any violation of the Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the Committee's judgment, constitutes a violation of the Code of Ethics. The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing the Putnam County Code of Ethics.

The Ethics Committee has four options as to how to proceed. The Committee may:

- (1) Refer the matter to the County Attorney for a legal opinion and/or recommendations for action;
- (2) In the case of an official, refer the matter to the county legislative body for possible public censure if the county legislative body finds such action warranted;
- (3) In the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;
- (4) In a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution;

The situation before the Ethics Committee is as follows:

- A petition/letter of September 6, 2012, was signed by ten Commissioners alleging a violation of the Open Meetings Act, T.C.A. § 8-44-101 et seq and the Putnam County Rules of Ethics.
- Pursuant to the Putnam County Code of Ethics, there is no rule that covers this situation other than a reference to the Open Meetings Act.
- The Open Meetings Act requires that governmental business be performed in open meetings. The Act applies to all meetings of any governing body. A "meeting" is defined as the "convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter." The term "governing body" is defined as "the members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.
- The Open Meetings Act, T.C.A. § 8-44-101 is not a criminal statute.
- No one has suggested nor filed any petition alleging a criminal act.
- No one has filed any petition alleging an ouster of any official should take place.

- The Open Meetings Act has as a remedy voiding an action taken in contravention of the law. This means that if it were found a violation of the law did indeed take place, the actions of the County Commission taken at the meeting on August 20, 2012, could possibly be voided. Ordinarily, to get to the point of voiding an action taken in contravention of the act, one must file a complaint in Court. The Commissioners who signed the letter on September 6, 2012, have not filed a petition with any court, but rather filed the letter of complaint with the County Court Clerk presumably so the Ethics Committee can handle the issue.

Accordingly, as to this situation, the options of the Ethics Committee are limited to the following based on the Rules of Ethics as adopted by the Putnam County Commission:

- Refer the matter to the County Commission for public censure.
- Refer the matter to the County Attorney for a legal opinion and recommendations for action.

The Ethics Committee requested that I conduct an investigation to determine if indeed a violation of the rules, or a violation of the law, took place. I have explained to the Ethics Committee that after rendering a legal opinion in this matter, the Ethics Committee will then make recommendations for action based on my legal opinion as to the facts before them.

## INVESTIGATION

The letter/complaint dated September 6, 2012, focused on an alleged meeting that occurred on August 18, 2012, involving nine County Commissioners.

In my investigation, I spoke with every Commissioner that may have attended the alleged meeting, every Commissioner who signed the complaint, as well as the remaining Commissioners who did neither. I also interviewed our County Executive and spoke on a few occasions with our County Clerk. I examined a video, reviewed news stories, and researched related to the law regarding the Open Meetings Act.

I treated the letter of September 6, 2012, as if it were a complaint filed in court. As stated earlier, in reviewing the Rules of Ethics as previously adopted by the Putnam County Commission, there is reference to the Open Meetings Act found at *Tennessee Code Annotated*, § 8-44-101, et seq. There is no other reference to the manner in which meetings of the County Commission should be conducted. Accordingly, the only question investigated and the only question before this Ethics Committee is whether the meeting of August 18, 2012, violated the Open Meetings Act. There are no other meetings or any other gatherings at issue, only the meeting of August 18, 2012.

I interviewed Kim Blaylock, our County Executive. As you might imagine, our County Executive was in somewhat of an unenviable position. Certainly, by virtue of the office, our County Executive hears much talk around the County regarding a variety of issues. However, as to this matter, our County Executive really could shed no more light on the situation than what was printed in the newspapers. In fact, it was obvious from my interview with her that she had tried very hard to have no involvement in this matter or as little as possible. In her words, she wanted to "stay out of the middle of it."

Likewise, both of the Commissioners that sit on the Ethics Committee walked a fine line in trying to stay out of the middle of this matter. I interviewed both Kevin Maynard and Kim Bradford. Both Commissioners stated that they learned of the Saturday meeting the week following August 18, 2012. Both stated that they had been approached as to signing the letter of September 6, 2012; however, both refused to do so because of their positions on the Ethics Committee and the possibility that the issue might come before them. Both stated that they had not spoken with any of the nine Commissioners involved in the alleged meeting about the situation because of their obligations on the Ethics Committee.

In my interviews with the remaining Commissioners, those who attended the meeting, those who signed the petition, as well as those who did neither, I was struck by one common theme that seemed to come up again and again throughout my interviews. As you might imagine, as I spoke to individual Commissioners, there was speculation on both sides as to various motivations for both conducting the Saturday meeting in question, as well as the filing of the ethics complaint with the County Clerk. In spite of the speculations as to the motivations, the theme that pervaded both sides was that everyone on both sides of the issue wanted "to do the right thing."

In regards to the nine Commissioners who met on August 18, 2012, without exception, every single person stated that the reason for the meeting was informational. Each Commissioner thought that he or she needed more information to cast a better vote regarding the budget, and each felt like gathering more information would make each of them a better Commissioner. In other words, every Commissioner who attended the meeting wanted more education "to do the right thing."

On the other hand, without exception, each individual Commissioner with whom I spoke that signed the complaint stated that the Saturday meeting "just didn't look right." Further, all who signed the complaint said that he or she had no problems in any Commissioner obtaining more information, but felt the manner in which the information is gathered needs to be done in the right way. It was stated to me by several of those signing the complaint that they wanted their fellow Commissioners "to do the right thing" as to such meetings.

## COMPLAINANTS

As for each of the ten County Commissioners that signed the letter to the County Clerk dated September 6, 2012, no one received a letter, email, nor invitation to the meeting of August 18, 2012. Each stated that he or she did not know specifically what was discussed at the Saturday meeting in question. None of those signing the Complaint were aware of any specific agreements or any votes taken at the meeting in question. Every Commissioner who signed the Complaint stated that the basis for the Complaint was the fact that the meeting took place. It was repeated to me many times that a meeting like that "simply didn't look good."

A few of the Commissioners that signed the Complaint stated they had subsequent conversations with Commissioners who did attend. In fact, it was relayed to me that a couple of the Commissioners who attended the meeting in question expressed remorse for doing so and even apologize, but did not state specifically for what apologies were made.

## ATTENDEES

As stated in the case law, as well recent Attorney General's Opinions, situations involving the Open Meetings Act are factually specific. In the matter at hand, given the fact that the complainants had no evidence as to what occurred at the meeting in question, the only real evidence that we have as to what happened inside the meeting in question is from the participants themselves.

Invitation to the meeting was by word-of-mouth and e-mail. The e-mail invitation was addressed to eleven Commissioners, nine of whom attended. Commissioners Pierce and Savage are addressed in the e-mail, but did not attend the meeting. Although the attendees that I interviewed stated that anyone would have been welcome at the meeting, the e-mail circulated tends to indicate that the group of attendees was selected. One inquiry in the e-mail circulated states "Want anyone else to come?" The obvious inference is that the group of invitees had been discussed and agreed upon.

In spite of the fact there was no formal request of the Budget Committee for information discussed at the meeting in question, the purpose of the meeting was to obtain more data as to the numbers from the Budget Committee. Most all of those who attended compared the meeting to a work session. According to several of the Commissioners who attended the meeting, most of the Commissioners had seen preliminary budget numbers prior to that date, but those attendees wanted more information. Some Commissioners stated that because of personal reasons, they were unable to attend all the budget meetings to get the information that they needed to properly represent their constituency. One of the Commissioners described himself as an "information freak." Another Commissioner stated he does not feel he is a competent representative unless he gets the information necessary to cast a vote.

Without exception, each of the nine Commissioners who attended the meeting explained to me that the meeting was purely informational. I was told there were positively no agreements among those who attended. No votes were taken. I was told no pressure was put on any Commissioner to vote in a certain manner.

## **VIDEO OF AUGUST 18, 2012**

At some point after August 18, 2012, an anonymous letter was delivered to the County Clerk, Wayne Nabors, along with a disk containing a video.

The video is a total of three minutes and four seconds. Essentially, the video shows nine County Commissioners coming out of the front door of 228 East Broad Street in Cookeville, Tennessee presumably on the morning of August 18, 2012. While the video is continuous, it is obvious the video has been edited. In the bottom right-hand corner of the video is a time index. Although the video shows each one of the Commissioners who attended the meeting exiting in quick sequence, there is a gap in the time index. It is further obvious that the video has been edited based on the reflections of the cars at the front of the building.

The sequence of exiting Commissioners is as follows:

1. Williams-Jonathan Williams exits the building at 8:38.47.
2. Martin, Ebersole-The next individuals to exit are Jim Martin and Scott Ebersole at 10:51.47.
3. Ludwig
4. Short(For a brief time, Martin, Ebersole, Ludwig and Short stayed and talked. It is obvious that the individuals are holding clipped papers. Three of the Commissioners leave, and Ludwig goes back in the building.)
5. Neal, Williamson, and Ludwig exits (Ludwig gets in car and leaves).
6. Atwood exits.
7. Duncan exits and locks the door. Duncan is holding a CTAS bag. Bob Duncan is the last to exit the meeting at 11:00 a.m.

The video surfaced after a story about the meeting in question had run in the Herald Citizen on August 31, 2012. The August 31 story essentially contained an admission from the nine members of the County Commission that they met at Bob Duncan's office for an informational meeting regarding the County budget. The video does not reveal anything more than was already known from the story in the Herald Citizen regarding the Saturday meeting in question. The video simply shows those Commissioners exiting the Saturday meeting.

What is interesting about the video is not what it shows, but rather what it is. I was unable to determine who took the video as it was delivered to the County Clerk's office anonymously. The import of the video is that the person took the video thought the meeting in question looked bad enough to surreptitiously record nine commissioners exiting the Saturday meeting.

## VOTING RECORD OF AUGUST 20, 2012

I examined the vote totals from the County Commission Meeting of August 20, 2012, to determine if there was a pattern of voting among the nine County Commissioners that attended the Saturday meeting. At the aforementioned County Commission Meeting of August 20, 2012, there were twenty-one (21) votes and/or motions made. Attached as an exhibit to this report is a spreadsheet of the various votes and motions as well as comments related to the same as to the manner in which voting took place.

Of the twenty-one (21) motions and/or resolutions, there were several that are ordinarily passed by the County Commission in nearly a unanimous fashion. Those resolutions included Various Funds, Motions for Nonprofits, Resolutions for Various Funds, Resolutions for General Purpose School Fund, and Resolution for Nonprofits. Each of those five items passed 22 to 2.

Of the remaining sixteen (16) motions and/or resolutions, the group of nine Commissioners that attended the meeting on Saturday failed to vote as a block on ten (10) of the proposals. In fact, had there been an agreement among the nine Commissioners, it is obvious that some of the motions that failed would have never been made in the first place, such as a Motion to Delete a portion of the Sports Council Budget, Motion to Delete the Cost of Living Raise for County Employees, and a Motion to Delete UCHRA funding.

There were six (6) motions and/or resolutions in which the group of nine Commissioners voted together. In all six votes, each not only passed with a majority, but in fact passed with more than a super majority (two-thirds or 16 votes from a 24 member Commission) of the County Commission in favor of the proposals. In fact, in four of the six items in which the nine Commissioners voted the same, more County Commissioners that had not attended the meeting in question voted for those proposals than the County Commissioners who had attended the meeting in question. These items included General Capital Service Projects, Debt Service, Motion to Amend Maintenance Funding out of the Sheriff's Department, and County General.

There were only two (2) votes in which the nine voted together making a majority of those voting in favor of a proposed issue. Those issues included the General Purpose School Budget at .9250 and a vote regarding the Amended Fire Budget. In each of those votes, eight Commissioners who did not attend the meeting in question also voted for the proposals. Each passed with (17) seventeen votes.

The bottom line is, that from an examination of the vote total from August 20, 2012, it is difficult to ascertain patterns or agreements as to the nine commissioners that attended the August 18<sup>th</sup> meeting.



## THE LAW

Although I have attached a memorandum of law related to the Open Meetings Act to my report, one of the most instructional legal opinions regarding the situation was issued by The Tennessee Attorney General earlier this year. Tenn Op. Atty. Gen. No. 12-60. Because it is so instructional, the opinion, in its entirety, is reprinted below.

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### Tenn Op. Atty. Gen. No. 12-60:

#### QUESTION

Can members of a county or city legislative body share a meal together and casually discuss county or city business and/or issues before their respective legislative bodies under the Open Meetings Act, if the discussion is for informative purposes only and no decisions are reached or attempts made to obtain commitments?

#### OPINION

The private discussion of public business at a meal by two or more members of a governing body could present the potential issue of whether a chance meeting, or informal assemblage, was used to decide or deliberate public business in circumvention of the spirit or requirements of the Open Meetings Act. Court decisions under the Act are necessarily fact dependent. Nonetheless, to avoid any violation of the Act the best advice is that, while two or more members may share a meal together in which public business is discussed, such discussion should not constitute deliberations, *i.e.*, “examin[ing] and consult[ing] in order to form an opinion ... weight[ing] arguments for and against a proposed course of action.” See *Johnston v. Metropolitan Government of Nashville and Davidson County*, 320 S.W. 3d 299, 311 (Tenn. Ct. App. 2009).

#### ANALYSIS

Your question requires interpretation of the Open Meetings Act, codified at Tenn. Code Ann. §§ 8-44-101 to -111. The Act applies to all meetings of any governing body. Tenn. Code Ann. § 8-44-102(a). The term “governing body” is defined as “the members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.” Tenn. Code Ann. § 8-44-102(b)(1). A “meeting” is defined as the “convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” Tenn. Code Ann. § 8-44-102(b)(2). A “meeting” does not, however, include any on-site inspection of any project or program. *Id.* Furthermore, to balance the policy favoring open government against the need for efficiency in government, the Act recognizes that not every encounter among members of a public body will be considered a meeting but also cautions that such encounters are not to be used to circumvent the Act:

Nothing in this section shall be construed as to require a chance meeting of two (2) or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communications shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part.

Tenn. Code Ann. § 8-44-102©.

The question posed is whether the members of a city or county legislative body could share a meal together and casually discuss city or county business or issues pending before those legislative bodies without violating the Open Meetings Act. It is difficult to formulate definitive guidelines regarding under what circumstances members of a governing body can privately discuss public business without violating the Open Meetings Act. However, the case law illustrates that the courts will examine the totality of the facts surrounding an alleged violation of the Act to determine whether a violation has occurred.

\*2 For example, in *Jackson v. Hensley*, 715 S.W.2d 605 (Tenn. Ct. App. 1986), the Roane County Commission elected one of its members to the position of Trustee of Roane County. The plaintiff alleged the election was void under Tenn. Code Ann. § 8-44-105 because the Commission violated the Open Meetings Act. In rejecting this contention, the Court of Appeals stated:

The record establishes that, upon learning of the vacancy in the trustee's office, Hensley contacted several of his fellow commissioners by telephone, soliciting their vote. In one instance, Hensley visited a commissioner at the latter's home asking for his vote. There was no meeting in the statutory sense until the commission met to elect the new trustee. The chancellor correctly determined that Hensley's solicitations were not "in circumvention of the spirit or requirements" of the Act. As the chancellor observed, Hensley "was doing nothing more than what a private citizen - any individual - would have had the right to do under the same or similar circumstances."

*Id.* at 607.

In *The University of Tennessee Arboretum Society, Inc. v. The City of Oak Ridge*, 1983 WL 825161, (Tenn. Ct. App. May 4, 1983), *cert. denied* (Tenn. Aug. 29, 1983), the Court of Appeals found that a mayor and two city councilmen had not violated the Open Meetings Act when they met with a representative of the Federal Aviation Administration to discuss the funding of an environmental impact statement needed for a proposed municipal report. In affirming the Chancellor's finding that no meeting had occurred in contravention of Tenn. Code Ann. § 8-44-102, the Court noted there was no attempt by the three individuals to make a decision or to deliberate toward a decision as prohibited by the Act. *Id.* at \*2. Rather, the Court concluded the meeting was an effort to gather information necessary for future deliberations with regard to the airport. *Id.*

Other decisions by the Court of Appeals are instructive on the broad question of under what circumstances members of a governing body can privately discuss public business without violating the Open Meetings Act. See *Op. Tenn. Att'y Gen.* 88-169 (Sept. 19, 1988) [citing *Tyler v. Henry County Nursing Home Board of Trustees*, slip op. (Tenn. Ct. App. Jan. 4, 1983) (Act was not violated when four of five Board members were confronted after regular meeting by disgruntled employees and heard their grievances but did not decide to terminate plaintiff until after a hearing on certain charges); *Selfe v. Bellah*, slip op. (Tenn. Ct. App. March 11, 1981) (telephone conversation and chance meeting between city councilmen prior to meeting in which zoning matter was considered did not violate Act when participants did not make a decision, solicit commitments or weigh and consider reasons for and against matter with a view to making a choice or determination)].

More recently, in *Johnston v. Metropolitan Government of Nashville and Davidson County*, 320 S.W.3d 299 (Tenn. Ct. App. 2009), the Court of Appeals addressed the issue of whether email communications among Council members were used to "deliberate public business" in circumvention of the Open Meetings Act. The Court first noted that the Act does not require an intent to circumvent the Act in order to find a violation, *i.e.*, a violation of the Open Meetings Act can occur inadvertently if the electronic communication has the effect of circumventing "the spirit or requirements" of the Act. *Id.* at 312 (citing Tenn. Code Ann. § 8-44-102(c)). The Court then examined whether the emails constituted deliberation, noting that the term "deliberate" had previously been defined as "to examine and consult in order to form an opinion.... [T]o weigh arguments for and against a proposed course of action." *Id.* at 311 (quoting *Neese v. Paris Special Sch. Dist.*, 813 S.W.2d 432, 435 (Tenn. Ct. App. 1990), quoting Black's Law Dictionary 384 (5<sup>th</sup> ed. 1979)).

\*3 The Court examined three categories of emails. The first category appeared to be merely the dissemination of information, such as emails from affected residents stating their position, that had been forwarded to other Council members. The second category included emails between individual Council members discussing strategy for gaining passage of the legislation in question. The Court found that neither of these emails constituted "deliberation," *i.e.*, "weigh[ing] arguments for and against a proposed course of action." *Id.* at 312.

The third category, however, included emails between Council members in which they were clearly weighing arguments for and against the proposed legislation. These emails, most of which were copied to all Council members, were found to "mirror the type of debate and reciprocal attempts at persuasion that would be expected to take place at a Council meeting, in the presence of the public and the Council as a whole." *Id.* Accordingly, the Court of Appeals found that these emails were "electronic communications ... used to ... deliberate public business in circumvention of the spirit or requirements" of the Open Meetings Act. *Id.*

In light of the above authority, the private discussion of public business at a meal by any number of members of a governing body would certainly present the potential issue of whether a chance meeting, or informal assemblage, was used to decide or deliberate public business in circumvention of the Open Meetings Act. Whether a violation occurred would depend upon what was said and what transpired during the meeting. Thus, while the case law does not lend itself to hard and fast rules because the decisions are so fact dependent, some cautious advice readily appears. While two or more members may share a meal together in which public business is discussed, such discussion should not constitute deliberations, which term has been defined to mean to "examine and consult in order to form an opinion" or to "weigh arguments for and against a proposed course of action." *Johnston v. Metropolitan Government*, 320 S.W.3d at 311.

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In the matter at hand, all nine Commissioners attending the meeting of August 18, 2012, stated no votes were taken, no agreements made, and no memoranda nor materials were created as a result of the meeting. Further, the meeting in question was not one in which a quorum was required. This leaves only the question as to whether the nine Commissioners deliberated toward a decision. The Open Meetings Act requires that deliberations as to public policy take place in an open forum. Further, one cannot use a closed door session to circumvent the spirit of the Open Meetings Act by holding deliberations outside of a public meeting. The case law illustrates that the courts will examine the totality of the facts surrounding an alleged violation of the Act to determine whether a violation has occurred.

Tennessee Courts have defined the term "deliberate" as "to examine and consult in order to form an opinion . . . [T]o weigh arguments for and against a proposed course of action. In the case of *Selfe v. Bellah*, (Tenn. Ct. App. March 11, 1981), a telephone conversation and chance meeting between city councilmen prior to meeting in which a zoning matter was considered did not violate the Act when participants did not make a decision, solicit commitments, or weigh and consider reasons for and against matter with a view to making a choice or determination. Accordingly, the question is whether the nine commissioners at the Saturday morning meeting weighed arguments for and against the proposed legislation, as well as engaged in the type of debate and reciprocal attempts at persuasion that would be expected to take place at a Commission meeting, in the presence of the public and the Commission as a whole.

In one case, the Tennessee Court of Appeals found that a mayor and two city councilmen had not violated the Open Meetings Act when they met with a representative of the Federal Aviation Administration to discuss the funding of an environmental impact statement needed for a proposed municipal report. In affirming the Chancellor's finding that no meeting had occurred in contravention of the Open Meetings Act, the Court noted there was no attempt by the three individuals to make a decision or to deliberate toward a decision as prohibited by the Act. Rather, the Court concluded the meeting was an effort to gather information necessary for future deliberations with regard to the airport.

## CONCLUSION

The Tennessee Attorney General Opinion from June, 2012, that I referenced earlier, addressed the issue as to whether informal gatherings of county officials violate the Open Meetings Act. To paraphrase the Tennessee Attorney General, whether there is a violation of the Open Meetings Act when such an informal gathering occurs is factually specific. Accordingly, there is no blanket answer. However, the Attorney General stated that because such meetings are so fraught with risks that the line can be crossed as to a violation of the Sunshine Law, such gatherings can potentially be a problem.

In the matter at hand, I believe we can conclusively say this situation certainly did not look good. Every single Commissioner who signed the letter of September 6, 2012 stated that this type of meeting "just doesn't look right." In the face of an important budget vote, in light of the fact not all of the Commissioners were invited to the meeting, coupled with the facts the meeting was conducted in a private place without proper notice, all indicate that the statement that the meeting "just didn't look right" is probably correct. Certainly, I would not even be here giving this legal opinion were it not for the fact that the meeting just didn't look right.

As we know from the case law, the law does not prohibit all informal discussions between members of the governing body. There is no provision in the Putnam County Rules of Ethics regarding a meeting that just doesn't look right. Accordingly, the Ethics Committee does not have the authority to recommend further action solely on this basis. There must be something more. In other words, as stated from the outset of this report, the question before us is whether there was a violation of the Open Meetings Act.

We are bound to act on the evidence that is before us. As I stated earlier, in the matter at hand, the only real evidence that we have as to what occurred inside the meeting in question is from the participants themselves. In the meeting of the nine commissioners, essentially every single Commissioner I interviewed stated his or her attendance at the meeting was an effort to gather information necessary for future deliberations regarding the budget. There is no evidence of any vote taken at the meeting, there was no quorum that was required for the meeting, and there is no evidence of an agreement coming from the meeting. Had there been an agreement, it is more likely there would have been a more unified block of votes at the meeting on Monday, August 20, 2012, as opposed to the results we examined earlier. There were no memorandums nor any writings that were created as a result of the meeting. According to the participants, there was no pressure by any Commissioner on any other to vote a certain way or to take a particular stance. According to the participants, the meeting was purely informational and educational. Each of the nine commissioners that I interviewed specifically denied deliberating in contravention of the Open Meetings Act.

In light of the specific denials by each of the nine in attendance at the Saturday morning meeting, the circumstantial evidence is just too general to support an inference that the nine Commissioners deliberated or decided public business in the informal assembly on August 18, 2012. Given the fact we have no evidence to the contrary, based on the evidence pursuant to the "reasonable man" standard dictated by our Rules of Ethics, I was unable to find a violation of the Open Meetings Act.

I would state this however. In the Herald-Citizen article of August 31, 2012, it was stated that some Commissioners during the meeting expressed various opinions. Although the meeting was described as purely informational, based on my interviews with those who attended, as well as the article in the Herald-Citizen of August 31, 2012, the meeting was probably more than just an exchange of information regarding numbers in the budget. One of the Commissioners likened the discussion at the meeting to the kind of casual discussion that happens between Commissioners before regular County Commission begins. In the article from the Herald-Citizen of August 31, 2012, the meeting was described a "brainstorming session." Pursuant to my interviews with those who attended the meeting in question, several stated that as various line items of the budget were discussed, some Commissioners would offer opinions.

A statement of opinion or belief by itself does not necessarily rise to the level of deliberation in violation of the Open Meetings Act. While I was unable to find a violation of the Open Meetings Act based on the evidence, I do believe that the expression of these opinions, coupled with the other factors previously discussed, cast some doubt on the statement that this meeting was purely informational. The manner in which this meeting was conducted certainly raised questions as to how close to the line the meeting actually was. As such, we should be circumspect about conducting meetings in this manner in the future.

## EXHIBITS TO REPORT

1. Letter complaining of Ethics Violation, September 6, 2012
2. Email inviting Commissioners to meeting of August 18, 2012
3. Minutes of Full Commission Meeting of August 20, 2012.
4. Ethics Resolution adopted by the Putnam County Commission
5. Tennessee Attorney General's opinion (12-60)
6. Cover letter with Video of commissioners exiting meeting on August 18, 2012.
7. Spreadsheet regarding Commission votes on August 20, 2012
8. Various news stories regarding incident

# EXHIBIT 1

September 6, 2012

County Court Clerk  
Wayne Nabors  
121 South Dixie  
Cookeville, TN 38501

**Re: Violation of the Sunshine Law**

A meeting was held on Saturday, August 18<sup>th</sup> 2012 at the office of Robert Duncan, on East Broad Street, Cookeville, TN. Those present were Robert Duncan & Jim Martin 2<sup>nd</sup> District County Commissioners, John Ludwig & Ron Williamson 4<sup>th</sup> District County Commissioners, Sue Neal 8<sup>th</sup> District County Commissioner, Michael Atwood 12<sup>th</sup>, District County Commissioner, Tom Short & Scott Ebersole 1<sup>st</sup> District County Commissioners, & Jonathan Williams 9<sup>th</sup> District County Commissioner.

We would like to formally file a complaint stating a violation of the Sunshine Law as well as an Ethic-violation happened at this meeting. We want to go on record stating that the commissioners listed above have violated the trust and respect of the governing body of Putnam County Tennessee.

There are Twenty-Four Commissioners who have a deciding vote on all issues. That was taken away when that group met. Were decision made on how to change a budget and override the decision of the budget committee? What we do know is, it was wrong!

Eris Bryant 9/6/12  
Date

Eris Bryant  
8<sup>th</sup> District County Commissioner

Jerry Ford & David Gentry 9-6-12  
Date

Jerry Ford & David Gentry  
3<sup>rd</sup> District County Commissioners

Anna Ruth Burroughs 9/6/12  
Date

Terry Randolph & Anna Ruth Burroughs  
5<sup>th</sup> District County Commissioner

Terry C. Randolph 9/10/12  
Date

Marsha K. Bowman 9-6-12  
Date

Marsha Bowman  
11<sup>th</sup> District County Commissioner



# EXHIBIT 2

## Jeffrey Jones

---

**From:** Bob Duncan <bob@dwwcpas.com>  
**Sent:** Monday, November 26, 2012 8:24 AM  
**To:** Jeffrey Jones  
**Subject:** FW: Saturday 7:00 meeting

Forwarded in accordance with your request of November 23, 2012.

Robert M. Duncan, Jr., CPA  
Duncan, Wheeler & Wilkerson, P.C.  
Certified Public Accountants  
Phone (931) 528-1545  
Fax (931) 526-3597  
Email: [bob@dwwcpas.com](mailto:bob@dwwcpas.com)  
Web: [www.dwwcpas.com](http://www.dwwcpas.com)

-----Original Message-----

**From:** Bob Duncan  
**Sent:** Thursday, August 16, 2012 5:52 PM  
**To:** [ronster05@frontiernet.net](mailto:ronster05@frontiernet.net)  
**Subject:** Re: Saturday 7:00 meeting

Same building as Poets. 228 E Broad Suite 200 NW of courthouse

Bob Duncan  
Sent from my iPhone so please excuse typos and incorrect word suggestions

On Aug 16, 2012, at 5:15 PM, "[ronster05@frontiernet.net](mailto:ronster05@frontiernet.net)" <[ronster05@frontiernet.net](mailto:ronster05@frontiernet.net)> wrote:

> What 's your address???

>

> -----Original Message-----

> From: Bob Duncan

> Sent: Thursday, August 16, 2012 11:31 AM

> To: [tom@trademarkprinting.net](mailto:tom@trademarkprinting.net) ; [tmawood48@charter.net](mailto:tmawood48@charter.net) ;

> [john724@frontiernet.net](mailto:john724@frontiernet.net) ; 'Jonathan Williams' ;

> [sneal@bpc-financial.com](mailto:sneal@bpc-financial.com) ; 'Chris Savage' ; 'Jim Martin' ; [ronster05@frontiernet.net](mailto:ronster05@frontiernet.net) ; 'Scott Ebersole'

> ; 'Steve Pierce'

> Subject: RE: Saturday 7:00 meeting

>

> 7 is ok with me. We will provide coffee at DWW but I won't guarantee

> that it will be ready earlier than 7.

>

> Robert M. Duncan, Jr., CPA

> Duncan, Wheeler & Wilkerson, P.C.

> Certified Public Accountants

> Phone (931) 528-1545

> Fax (931) 526-3597

> Email: [bob@dwwcpcas.com](mailto:bob@dwwcpcas.com)

> Web: [www.dwwcpcas.com](http://www.dwwcpcas.com)

>

>

> -----Original Message-----

> From: Tom Short [<mailto:tom@trademarkprinting.net>]

> Sent: Thursday, August 16, 2012 10:34 AM

> To: [tmatwood48@charter.net](mailto:tmatwood48@charter.net); Bob Duncan; [john724@frontiernet.net](mailto:john724@frontiernet.net);

> 'Jonathan Williams'; [sneal@bpc-financial.com](mailto:sneal@bpc-financial.com); 'Chris Savage'; 'Jim

> Martin'; [ronster05@frontiernet.net](mailto:ronster05@frontiernet.net); 'Scott Ebersole'; 'Steve Pierce'

> Subject: RE: Saturday 7:00 meeting

>

> Would it put a strain on anyone if we shoot for 7 am instead of the  
> previous 7:30? Will bring Sausage and biscuits if that helps.BYOC.

>

>

> Trademark Printing

> 502-A W. Spring St.

> Cookeville, TN 38501

> 931-520-3421 Fax: 931-520-7621

> [www.trademarkprinting.net](http://www.trademarkprinting.net)

> cell: 931-260-6675

>

>

> -----Original Message-----

> From: Tom Short [<mailto:tom@trademarkprinting.net>]

> Sent: Tuesday, August 14, 2012 11:55 AM

> To: 'tmatwood48@charter.net'; 'Bob Duncan'; 'john724@frontiernet.net';

> 'Jonathan Williams'; 'sneal@bpc-financial.com'; 'Chris Savage'; 'Jim

> Martin'; 'ronster05@frontiernet.net'; 'Scott Ebersole'

> Subject: Saturday 7:30 meeting

>

> Moved to Duncan, Wheeler on Broad. I will try to have some reports for you.

> Focus on the biggies: School, sheriff, maintenance and debt service.

>

> Jonathan needs to be at work by 9 so we need to get things done

> timely. Want anyone else to come?

>

>

>

> See you on the 18th

>

>

>

> Tom

>

>

>

> tomSig-TomShort

>

> Trademark Printing

>

> 502-A W. Spring St.

>

> Cookeville, TN 38501

>

> 931-520-3421 Fax: 931-520-7621

>

> [www.trademarkprinting.net](http://www.trademarkprinting.net)

>

> cell: 931-260-6675

>

>

>

>

>

# EXHIBIT 3

The Chairman asked for discussion on the motion to approve the tax rate for the County Road Fund at .10.

The Chairman asked the Commissioners to vote on the motion to approve the tax rate for County Road Fund at .10. The Commissioners voted as follows:

FOR:

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST:

Anna Ruth Burroughs

Bob Duncan  
Marsha Bowman

The Clerk announced that twenty-one (21) voted for, three (3) voted against, and zero (0) absent. The motion carried.

**MOTON RE: ADD THE WORDING APPROVE BUDGET AND SET TAX RATE FOR THE DEPARTMENT AND LEAVE SAME AS LAST YEAR WORDING OFF ANY MOTION**

Commissioner Jim Martin moved and Commissioner Ron Williamson seconded the motion to add the wording Approve Budget and Set Tax Rate for the Department and leave same as last year wording off any motion.

The Chairman asked for discussion on the motion to add the wording Approve Budget and Set Tax Rate for the Department and leave same as last year wording off any motion. The Commissioners discussed the motion.

The Chairman asked the Commissioners for a voice vote on the motion to add the wording Approve Budget and Set Tax Rate for the Department and leave same as last year wording off any motion. The motion carried.

The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for the Sports and Recreation Budget at .0550. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the motion to approve the Budget and set the tax rate for Sports and Recreation Budget at .0550. The Commissioners voted as follows:

FOR:

Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Cathy Reel

AGAINST:

Scott Ebersole  
Anna Ruth Burroughs  
Chris Savage

Marsha Bowman  
Mike Atwood

The Clerk announced that nineteen (19) voted for, five (5) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL FOR THE BUDGET AND SET THE TAX RATE FOR THE INDUSTRIAL / ECONOMIC DEVELOPMENT BUDGET AT .0300**

Commissioner Terry Randolph moved and Commissioner Jim Martin seconded the motion to approve the Budget and set the tax rate for the Industrial / Economic Budget at .0300.

(SEE ATTACHED)

68

The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for the Industrial / Economic Development Budget at .0300. The Commissioners discussed the motion.

**MOTION RE: TO DELETE A PORTION OF SPORTS COUNCIL BUDGET**

Commissioner Jonathan Williams moved to delete a portion of Sports Council Budget. However, the motion failed for the lack of a second.

The Chairman asked the Commissioners to vote on the motion to approve the Budget and set the tax rate for the Industrial / Economic Development Budget at .0300. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh

Eris Bryant  
Sue Neal  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

**AGAINST:**

Jerry Ford  
Anna Ruth Burroughs  
Michael Medley

Jonathan Williams  
Marsha Bowman

The Clerk announced that nineteen (19) voted for, five (5) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL FOR THE BUDGET AND SET THE TAX RATE FOR GENERAL PURPOSE SCHOOL BUDGET AT .9500**

Commissioner Terry Randolph moved and Commissioner Eris Bryant seconded the motion to approve the Budget and set the tax rate for General Purpose School Budget at .9500.

(SEE ATTACHED)



The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for General Purpose School Budget at .9500. The Commissioners discussed the motion.

**MOTION RE: AMEND THE MOTION TO SET THE TAX RATE FOR THE GENERAL PURPOSE SCHOOL BUDGET AT .9250 INSTEAD OF A 5 CENT INCREASE AT .9500**

Commissioner Jim Martin moved and Commissioner Scott Ebersole seconded the amended motion to the set tax rate for the General Purpose School Budget at .9250 instead of a 5 cent increase at .9500.

The Chairman asked for discussion on the amended motion. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the amended motion to approve the tax rate for General Purpose School Budget at .9250 instead of a 5 cent increase at .9500. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
John Ludwig  
Chris Savage  
Joe Trobaugh  
Michael Medley

Sue Neal  
Jonathan Williams  
Jim Martin  
Bob Duncan  
Mike Atwood  
Cathy Reel

**AGAINST**

Ron Williamson  
Anna Ruth Burroughs  
Terry Randolph  
Reggie Shanks

Eris Bryant  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Marsha Bowman  
Steve Pierce

The Clerk announced fourteen (14) voted for, ten (10) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL OF THE ORIGINAL MOTION AS AMENDED FOR THE TAX RATE FOR THE GENERAL PURPOSE SCHOOL BUDGET AT .9250**

The Chairman asked for discussion on the original motion as amended to set the tax rate for the General Purpose School Budget at .9250. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the original motion as amended to set the tax rate for the General Purpose School Budget at .9250. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Anna Ruth Burroughs  
Chris Savage  
Joe Trobaugh  
Michael Medley

Sue Neal  
Jonathan Williams  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

**AGAINST**

Terry Randolph  
Reggie Shanks

Eris Bryant  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Marsha Bowman

The Clerk announced seventeen (17) voted for, seven (7) voted against, and zero (0) absent. The motion carried.

**MOTION RE: DELETE COST OF LIVING RAISE FROM 2012-2013 BUDGET FOR COUNTY EMPLOYEES OF \$500 EACH**

Commissioner Scott Ebersole moved and Commissioner Chris Savage seconded the motion to delete the county employees cost of living raise of \$500 each from 2012-2013 Budget.

The Chalmers asked for discussion on the motion to delete the county employees cost of living raise of \$500 each from 2012-2013 Budget. The Commissioners discussed the motion.

Commissioner Scott Ebersole withdraws the motion to delete the county employees cost of living raise of \$500 each from 2012-2013 Budget.

**MOTION RE: RECOMMENDS APPROVAL FOR THE BUDGET AND SET THE TAX RATE FOR SOLID WASTE / SANITATION BUDGET AT .1900**

Commissioner Terry Randolph moved and Commissioner Eris Bryant seconded the motion to approve the Budget and set the tax rate for Solid Waste / Sanitation Budget at .1900.

98

The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for the Solid Waste / Sanitation Budget at .1900. There was none.

The Chairman asked the Commissioners to vote on the motion to approve the Budget and set the tax rate for the Solid Waste / Sanitation Budget at .1900. The Commissioners voted as follows:

FOR:

Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST

Scott Ebersole  
Anna Ruth Burroughs

Bob Duncan  
Marsha Bowman

The Clerk announced twenty (20) voted for, four (4) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL FOR THE BUDGET AND SET THE TAX RATE FOR THE GENERAL CAPITAL PROJECTS BUDGET AT .0200**

Commissioner Terry Randolph moved and Commissioner Eris Bryant seconded the motion to approve the Budget and set the tax rate for the General Capital Projects Budget at .0200.

(SEE ATTACHED)

1024

The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for the General Capital Projects Budget at .0200. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the motion to approve Budget and set the tax rate for the General Capital Projects Budget at .0200. The Commissioners voted as follows:

FOR:

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST

Anna Ruth Burroughs  
Reggie Shanks

Marsha Bowman

The Clerk announced twenty-one (21) voted for, three (3) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL FOR THE BUDGET AND SET THE TAX RATE FOR DEBT SERVICE BUDGET AT .6500**

Commissioner Terry Randolph moved and Commissioner Eris Bryant seconded the motion to approve Budget and set the tax rate for the Debt Service Budget at .6500.

(SEE ATTACHED)

///

The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for the Debt Service Budget at .6500. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the motion to approve the Budget and set the tax rate for the Debt Service Budget at .6500. The Commissioners voted as follows:

FOR:

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Joe Trobaugh

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST

Anna Ruth Burroughs  
Reggie Shanks  
Michael Medley

Marsha Bowman

The Clerk announced twenty (20) voted for, four (4) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL FOR THE BUDGET AND SET THE TAX RATE FOR COUNTY GENERAL BUDGET AT .8350**

Commissioner Terry Randolph moved and Commissioner Steve Pierce seconded the motion to approve the Budget and set the tax rate for the County General Budget at .8350.

(SEE ATTACHED)

117

The Chairman asked for discussion on the motion to approve the Budget and set the tax rate for the County General Budget at .8350. The Commissioners discussed the motion.

**MOTION RE: AMEND THE FIRE DEPARTMENT BUDGET TO DELETE MOTOR VEHICLES \$370,000 LINE ITEM # 54310-718 AND LINE ITEM 54310-706 BUILDING CONSTRUCTION \$100,000 FOR A \$470,000 TOTAL**

Commissioner Bob Duncan moved and Commissioner Jim Martin seconded the motion to amend the Fire Department Budget to delete motor vehicles \$370,000 Line Item # 54310-718 and Line Item 54310-706 Building Construction \$100,000 for a \$470,000 total.

The Chairman asked for discussion on the amended motion. The Commissioners discussed the amended motion of the Fire Department Budget to delete motor vehicles \$370,000 Line Item # 54310-718 and Line Item 54310-706 Building Construction \$100,000 for a \$470,000 total.

**MOTION RE: TABLE THE AMENDED MOTION OF FIRE DEPARTMENT BUDGET FOR MOTOR VEHICLE AND BUILDING CONSTRUCTION**

Commissioner Eris Bryant moved and Commissioner Kim Bradford seconded to table the amended motion of the Fire Department Budget for motor vehicle and building construction.

The Chairman asked the Commissioners to vote on the motion to table. The Commissioners voted as follows:

**FOR:**

John Ludwig  
Terry Randolph  
Joe Trobaugh

Eris Bryant  
Daryl Blair  
Kim Bradford  
Steve Pierce

**AGAINST**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
Anna Ruth Burroughs  
Chris Savage  
Michael Medley

Sue Neal  
Jonathan Williams  
Kevin Maynard  
Jim Martin  
Bob Duncan  
Marsha Bowman  
Mike Atwood  
Cathy Reel

**ABSTAIN:**

Reggie Shanks

148

The Clerk announced seven (7) voted for, sixteen (16) voted against, and one (1) abstained, and zero (0) absent. The motion failed.

The Chairman asked the Commissioners for further discussion on the amended motion of the Fire Department Budget to delete motor vehicles \$370,000 Line Item # 54310-718 and Line Item 54310-706 Building Construction \$100,000 for a \$470,000 total and add to amendment, the Commission Chairman to appoint a committee to study the Fire Department and 5 members on the committee evaluate the County Fire Department and funding source and bring back to Commission in 90 days. The Commissioners further discussed the amended motion.

The Chairman asked the Commissioners to vote on the amended motion. The Commissioners voted as follows:

FOR:

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Anna Ruth Burroughs  
Terry Randolph  
Joe Trobaugh  
Michael Medley

Sue Neal  
Jonathan Williams  
Kevin Maynard  
Jim Martin  
Bob Duncan  
Mike Atwood  
Cathy Reel

AGAINST:

Chris Savage

Eris Bryant  
Daryl Blair  
Kim Bradford  
Marsha Bowman  
Steve Pierce

ABSTAIN:

Reggie Shanks

The Clerk announced seventeen (17) voted for, six (6) voted against, and one (1) abstained, and zero (0) absent. The motion carried.



**MOTION RE: AMEND THE MOTION TO DELETE MAINTENANCE FUNDING OUT OF SHERIFFS BUDGET AND PUT BACK IN MAINTENANCE DEPARTMENT BUDGET AND ELIMINATE THE 2 POSITIONS IN MAINTENANCE THAT WAS ASSIGNED TO THE SHERIFFS DEPARTMENT BUDGET (LINE ITEM #54210-189 FOR \$48,000 AND LINE ITEM #54210-335 FOR \$50,000) BACK TO MAINTENANCE DEPARTMENT BUDGET**

Commissioner Jim Martin moved and Commissioner Jonathan Williams seconded the amended motion to delete maintenance funding out of Sheriffs Budget and put back in Maintenance Department Budget and eliminate the 2 positions in maintenance that was assigned to the Sheriffs Department Budget.

The Chairman asked for discussion on the motion. The Commissioners discussed the amended motion.

The Chairman asked the Commissioners to vote on the amended motion to delete maintenance funding out of Sheriffs Budget and put back in Maintenance Department Budget and eliminate the 2 positions in maintenance that was assigned to the Sheriffs Department Budget. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Anna Ruth Burroughs  
Terry Randolph  
Chris Savage

Sue Neal  
Jonathan Williams  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Marsha Bowman  
Steve Pierce  
Mike Atwood  
Cathy Reel

**AGAINST:**

Michael Medley

Eris Bryant  
Daryl Blair

**ABSTAIN:**

Reggie Shanks  
Joe Trobaugh

The Clerk announced nineteen (19) voted for, three (3) voted against, and two (2) abstained, and zero (0) absent. The motion carried.

The Chairman asked the Commissioners for further discussion on the original motion with the 2 amendments (Fire Department Budget to delete motor vehicles \$370,000, building construction \$100,000 and delete maintenance funding out of Sheriffs Department Budget and put back in Maintenance Department and eliminate 2 positions in maintenance that was assigned to Sheriffs Department Budget). The Commissioners further discussed the motion.

The Chairman asked the Commissioners to vote on the original motion to approve the Budget and set the tax rate for the County General Budget at .8350 with the 2 amendments. The Commissioners voted as follows:

FOR:

Scott Ebersole	Eris Bryant
Tom Short	Sue Neal
David Gentry	Jonathan Williams
Jerry Ford	Daryl Blair
Ron Williamson	Kevin Maynard
John Ludwig	Kim Bradford
Anna Ruth Burroughs	Jim Martin
Terry Randolph	Bob Duncan
Michael Medley	Marsha Bowman
	Steve Pierce
	Mike Atwood
	Cathy Reel

AGAINST

Chris Savage  
Reggie Shanks

ABSTAIN:

Joe Trobaugh

The Clerk announced twenty-one (21) voted for, two (2) voted against, one (1) abstained, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL OF APPROPRIATIONS FOR VARIOUS FUNDS, DEPARTMENTS, INSTITUTIONS, OFFICES, AND AGENCIES OF PUTNAM COUNTY, TENNESSEE FOR THE FISCAL YEAR BEGINNING JULY 1, 2012 AND ENDING JUNE 30, 2013**

Commissioner Terry Randolph moved and Commissioner Daryl Blair seconded the motion to approve Appropriations for Various Funds, Departments, Institutions, Offices, and Agencies of Putnam County, Tennessee for the Fiscal Year beginning July 1, 2012 and ending June 30, 2013.

(SEE ATTACHED)

151

The Chairman asked for discussion on the motion to approve Appropriations for Various Funds, Departments, Institutions, Offices, and Agencies of Putnam County Tennessee for the Fiscal Year beginning July 1, 2012 and ending June 30, 2013. The Commissioners discussed the motion.

**MOTION RE: APPROVE SEVEN REMAINING BUDGETS**

**121 PRESERVATION OF RECORDS  
122 DRUG CONTROL  
128 VETERAND BUILDING FUND  
142 FEDERAL PROJECTS  
143 CENTRAL CAFETERIA  
146 EXTENTED SCHOOL PROGRAM  
359 COMMUNITY DEVELOPMENT**

Commissioner Mike Atwood moved and Commissioner Ron Williamson seconded the motion to approve the 7 remaining Budgets.

The Chairman asked for discussion on the motion to approve the 7 remaining Budgets. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the approval of the 7 remaining Budgets. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

**AGAINST**

Anna Ruth Burroughs

Marsha Bowman

The Clerk announced twenty-two (22) voted for, two (2) voted against, and zero (0) absent. The motion carried.

**MOTION RE: AMEND NON-PROFIT TO DELETE SECTION 11 OF UCHRA \$14,464 TO 0 AMOUNT**

Commissioner Tom Short moved and Commissioner Jonathan Williams seconded the motion to amend Non-Profit to delete Section 11 of UCHRA \$14,464 to 0 amount.

The Chairman asked for discussion to the amended motion for Non-Profit to delete Section 11 of UCHRA \$14,464 to 0 amount. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the amended motion for Non-Profit to delete Section 11 of UCHRA \$14,464 to 0 amount. The Commissioners voted as follows:

For:

Scott Ebersole  
Tom Short  
David Gentry  
Anna Ruth Burroughs  
Reggie Shanks  
Michael Medley

Sue Neal  
Jonathan Williams

AGAINST

Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Joe Trobaugh

Eris Bryant  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Marsha Bowman  
Steve Pierce  
Mike Atwood  
Cathy Reel

The Clerk announced eight (8) voted for, sixteen (16) voted against, and zero (0) absent. The motion failed.

The Chairman asked the Commissioners to vote on the original motion to approve Appropriations to Non-Profit, Charitable and Civic Organizations benefiting Putnam County, Tennessee for the Fiscal Year beginning July 1, 2012 and ending June 30, 2013. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Marsha Bowman  
Steve Pierce  
Mike Atwood  
Cathy Reel

**AGAINST**

Anna Ruth Burroughs  
Michael Medley

The Clerk announced twenty-two (22) voted for, two (2) voted against, and zero (0) absent. The motion carried.

**RESOLUTIONS**

**MOTION RE: RECOMMENDS APPROVAL OF RESOLUTIONS PROPOSING TAX RATE IN PUTNAM COUNTY, TENNESSEE FOR THE FISCAL YEAR BEGINNING JULY 1, 2012 TO BE SET AT \$2.805**

Commissioner Terry Randolph moved and Commissioner Ron Williamson seconded the motion to approve Resolutions Proposing Tax Rate in Putnam County, Tennessee for the Fiscal Year Beginning July 1, 2012 to be set at \$2.805.

(SEE ATTACHED)

180

The Chairman asked for discussion on the motion to approve Resolutions Proposing Tax Rate in Putnam County, Tennessee for the Fiscal Year Beginning July 1, 2012 to be set at \$2.805. There was none.

The Chairman asked the Commissioners to vote on the motion to approve Resolutions Proposing Tax Rate in Putnam County, Tennessee for the Fiscal Year Beginning July 1, 2012 to be set at \$2.805. The Commissioners voted as follows:

FOR:

Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Joe Trobaugh

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST

Scott Ebersole  
Anna Ruth Burroughs  
Chris Savage  
Reggie Shanks  
Michael Medley

Marsha Bowman

The Clerk announced eighteen (18) voted for, six (6) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL OF RESOLUTIONS FOR THE VARIOUS FUNDS, DEPARTMENTS, INSTITUTIONS, OFFICES, AND AGENCIES OF PUTNAM COUNTY, TENNESSEE FOR THE FISCAL YEAR BEGINNING JULY 1, 2012 AND ENDING JUNE 30, 2013**

Commissioner Terry Randolph moved and Commissioner Ron Williamson seconded the motion to approve Resolutions for the Various Funds, Departments, Institutions, Offices, and Agencies of Putnam County, Tennessee for the Fiscal Year beginning July 1, 2012 and ending June 30, 2013.

(SEE ATTACHED)

The Chairman asked for discussion on the motion to approve Resolutions for the Various Funds, Departments, Institutions, Offices, and Agencies of Putnam County, Tennessee for the Fiscal Year beginning July 1, 2012 and ending June 30, 2013. The Commissioners discussed the motion.

The Chairman asked the Commissioners to vote on the motion to approve Resolutions for the Various Funds, Departments, Institutions, Offices, and Agencies of Putnam County, Tennessee for the Fiscal Year beginning July 1, 2012 and ending June 30, 2013. The Commissioners voted as follows:

FOR:

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST

Anna Ruth Burroughs

Marsha Bowman

The Clerk announced twenty-two (22) voted for, two (2) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL OF RESOLUTIONS SETTING A PROPOSED TAX RATE FOR THE GENERAL PURPOSE SCHOOL FUND OF PUTNAM COUNTY, TENNESSEE FOR THE FISCAL YEAR BEGINNING JULY 1, 2012 AND ENDING JUNE 30, 2013**

Commissioner Terry Randolph moved and Commissioner Joe Trobaugh seconded the motion to approve Resolutions Setting a Proposed Tax Rate for the General Purpose School Fund of Putnam County, Tennessee for the Fiscal Year Beginning July 1, 2012 and ending June 30, 2013.

(SEE ATTACHED)

The Chairman asked for discussion on the motion to approve Resolutions Setting a Proposed Tax Rate for the General Purpose School Fund of Putnam County, Tennessee for the Fiscal Year Beginning July 1, 2012 and ending June 30, 2013. There was none.

The Chairman asked the Commissioners to vote on the motion to approve Resolutions Setting a Proposed Tax Rate for the General Purpose School Fund of Putnam County, Tennessee for the Fiscal Year Beginning July 1, 2012 and ending June 30, 2013. The Commissioners voted as follows:

FOR:

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

AGAINST

Anna Ruth Burroughs

Marsha Bowman

The Clerk announced twenty-two (22) voted for, two (2) voted against, and zero (0) absent. The motion carried.

**MOTION RE: RECOMMENDS APPROVAL OF RESOLUTIONS MAKING APPROPRIATIONS FOR NON-PROFIT CHARITABLE AND CIVIC ORGANIZATIONS BENEFITING PUTNAM COUNTY, TENNESSEE FOR FISCAL YEAR BEGINNING JULY 1, 2012 AND ENDING JUNE 30, 2013**

Commissioner Terry Randolph moved and Commissioner Jim Martin seconded the motion to approve Resolutions making Appropriations for Non-Profit Charitable and Civic Organizations benefiting Putnam County Tennessee for Fiscal Year beginning July 1, 2012 and ending June 30, 2013.

(SEE ATTACHED)



The Chairman asked for discussion on the motion to approve Resolutions making Appropriations for Non-Profit Charitable and Civic Organizations benefiting Putnam County Tennessee for Fiscal Year beginning July 1, 2012 and ending June 30, 2013. There was none.

The Chairman asked the Commissioners to vote on the motion to approve Resolutions making Appropriations for Non-Profit Charitable and Civic Organizations benefiting Putnam County Tennessee for Fiscal Year beginning July 1, 2012 and ending June 30, 2013. The Commissioners voted as follows:

**FOR:**

Scott Ebersole  
Tom Short  
David Gentry  
Jerry Ford  
Ron Williamson  
John Ludwig  
Terry Randolph  
Chris Savage  
Reggie Shanks  
Joe Trobaugh  
Michael Medley

Eris Bryant  
Sue Neal  
Jonathan Williams  
Daryl Blair  
Kevin Maynard  
Kim Bradford  
Jim Martin  
Bob Duncan  
Steve Pierce  
Mike Atwood  
Cathy Reel

**AGAINST**

Anna Ruth Burroughs

Marsha Bowman

The Clerk announced twenty-two (22) voted for, two (2) voted against, and zero (0) absent. The motion carried.

**ELECTION OF NOTARIES**

Commissioner Mike Atwood moved and Commissioner David Gentry seconded the motion to approve the Election of Notaries.

(SEE ATTACHED)

194

# EXHIBIT 4

**CODE OF ETHICS  
PUTNAM COUNTY, TENNESSEE**

**Section 1. Definitions.**

(1) "County" means Putnam County, which includes all boards, committees, commissions, authorities, corporations or other instrumentalities appointed or created by the county or an official of the county, and specifically including the county school board, the county election commission, the county health department, and utility districts in the county.

(2) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the county.

(3) "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics, a financial interest of the official or employee, or a financial interest of the official's or employee's spouse or child living in the same household, in the matter to be voted upon, regulated, supervised, or otherwise acted upon in an official capacity.

**Section 2. Disclosure of personal interest in voting matters.** An official or employee with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from voting on the measure.

**Section 3. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter other than casting a vote and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on the attached disclosure form and file the disclosure form with the county clerk. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from the exercise of discretion in the matter.

**Section 4. Acceptance of gifts and other things of value.** An official or employee, or an official's or employee's spouse or child living in the same household, may not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That a reasonable person would understand was intended to influence the vote, official action, or judgment of the official or employee in executing county business.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with a conference sponsored by an established or recognized statewide association of county government officials or by an umbrella or affiliate organization of such statewide association of county government officials.

Exceptions. The prohibition on accepting gifts in section 4 does not apply to:

- i. A gift given by a member of the board member's immediate family, or by an individual if the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the board member. In determining whether a gift falls within this subsection, the factors contained in Tenn. Code Ann. Section 3-6-114(b) (3) (A) and (B) shall apply.
- ii. Informational materials in the form of books, articles periodicals, other written materials, audiotapes, videotapes, or other forms of communication;
- iii. Sample merchandise, promotional items, and appreciation tokens; provided they are routinely given to customers, suppliers or potential customers in the ordinary course of business;
- iv. Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided that any such item shall not be in a form which can be readily converted to cash;
- v. Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, if the value of such items does not exceed fifty dollars (\$50.00) per occasion; provided that the value of a gift made pursuant to this subsection may not be reduced below the monetary limit by dividing the cost of the gift among two or more persons or entities identified in paragraph 3;
- vi. Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where the employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings.

**Section 5. Ethics Complaints.** A County Ethics Committee (the "Ethics Committee") consisting of five members shall be appointed to one-year terms by the County Mayor with confirmation by the county legislative body, to be appointed each year at the same time as internal committees of the county legislative body. At least three members of the committee shall be members of the county legislative body (with one of the members being the Parliamentarian of the county legislative body) ; one member shall be a constitutional county officer or, should no constitutional county officer be willing to

accept appointment, an additional member of the county legislative body; and the remaining member may be either a member of a board, committee, commission, authority, corporation, or other instrumentality governed by this policy, or an additional member of the county legislative body. The Ethics Committee shall convene as soon as practicable after their appointment and elect a chair and a secretary. The records of the Ethics Committee shall be maintained by the secretary and shall be filed in the office of the county clerk, where they shall be open to public inspection.

Questions and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct should be directed to the chair of the Ethics Committee. Complaints shall be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based.

The County Ethics Committee shall investigate any credible complaint against an official or employee charging any violation of this Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the Committee's judgment, constitutes a violation of this Code of Ethics. If a member of the Committee is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint.

The Committee may:

- (1) refer the matter to the County Attorney for a legal opinion and/or recommendations for action;
- (2) in the case of an official, refer the matter to the county legislative body for possible public censure if the county legislative body finds such action warranted;
- (3) in the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;
- (4) in a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution;

The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics. When a violation of this Code of Ethics also constitutes a violation of a personnel policy or a civil service policy, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

**Section 6. Applicable State Laws.** In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of county officials and employees in the performance of their duties. Officials and employees should familiarize themselves with the state laws applicable to their office or position and the performance of their duties. To the extent that an issue is addressed by state

law (law of general application, public law of local application, local option law, or private act), the provisions of that state law, to the extent they are more restrictive, shall control. Following is a brief summary of selected state laws concerning ethics in county government. For the full text of these statutes, see the Tennessee Code Annotated (T.C.A.) sections indicated.

Campaign finance – T.C.A. Title 2, Chapter 10. Part One (campaign financial disclosure) requires candidates for public office to disclose contributions and contributors to their campaigns. Part Three (campaign contribution limits) limits the total amount of campaign contributions a candidate may receive from an individual and sets limits on the amount a candidate may receive in cash.

Conflict of interest – T.C.A. § 12-4-101 is the general conflict of interest statute that applies in all counties. It prohibits anyone who votes for, lets out, or in any manner supervises any work or contract from having a direct financial interest in that contract, purchase or work, and it requires disclosure of indirect financial interests by public acknowledgment.

Conflict of interest – T.C.A. § 49-6-2003 applies to the department of education in all counties and prohibits direct and indirect conflicts of interest in the sale of supplies for use in public schools.

Conflict of interest – T.C.A. § 5-1-125 applies in all counties and prohibits county officials and employees from purchasing surplus county property except where it is sold by public bid.

Conflict of interest – T.C.A. § 54-7-203 applies in all counties that are governed by the County Uniform Highway Law. It prohibits officials and employees in the highway department and members of the county legislative body from having any personal interest in purchases of supplies, materials, machinery, and equipment for the highway department.

Conflict of interest – T.C.A. § 5-14-114 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from having any financial or other personal beneficial interest in any contract or purchase of goods or services for any department or agency of the county.

Conflict of interest – T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits all county officials and employees from having any financial or other personal beneficial interest in the purchase of any supplies, materials or equipment for the county.

Conflict of interest – T.C.A. §§ 5-5-102 and 12-4-101 govern disclosures and abstentions from voting due to conflicts of interest of members of county legislative bodies.

Conflict of interest disclosure statements – T.C.A. § 8-50-501 and the following sections require candidates and appointees to local public offices to file a disclosure statement with the state ethics commission listing major sources of income, investments, lobbying activities, professional services provided, bankruptcies, certain loans, and other information, and to keep these statements up to date.

Gifts – T.C.A. § 5-14-114 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from receiving anything of value, directly or indirectly, from anyone who may have or obtain a contract or purchase order with the county.

Gifts – T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits the finance director, purchasing agent, and employees in those departments from accepting anything of value, directly or indirectly, from anyone who furnishes supplies, materials or equipment to the county.

Honoraria – T.C.A. § 2-10-116 prohibits elected officials from accepting an honorarium (including money or anything of value, but not including reimbursement for actual expenses) for an appearance, speech, or article in their official capacity.

Private use of public property – T.C.A. § 54-7-202 applies in counties that are governed by the County Uniform Highway Law. It prohibits the private use of equipment, rock, and other highway materials.

Court sales – T.C.A. § 39-16-405 prohibits judges, clerks of court, court officers, and employees of court, from bidding on or purchasing any property sold through the court for which such person discharges official duties.

Rules of the Supreme Court – Rule 10, Cannon 5 (Code of Judicial Conduct) establishes ethical rules for judges and other court personnel when exercising judicial functions.

Fee statutes – T.C.A. §§ 8-21-101, 8-21-102, and 8-21-103 set out circumstances where fees are authorized, prohibit officials from requiring payment of fees in advance of performance of services except where specifically authorized, and set penalties for charging excessive or unauthorized fees.

Consulting fee prohibition for elected county officials – T.C.A. §§ 2-10-122 and 2-10-124 prohibit officials from receiving compensation for advising or assisting a person or entity in influencing county legislative or administrative action.

Crimes involving public officials– T.C.A. § 39-16-101 and the following sections prohibit bribery, soliciting unlawful compensation, and buying and selling in regard to offices.

Official misconduct – T.C.A. § 39-16-402 applies to public servants and candidates for office and prohibits unauthorized exercise of official power, acting in an official capacity exceeding the servant's power, refusal to perform a duty imposed by law, violating a law

relating to the servant's office or employment, and receiving a benefit not provided by law.

Official oppression – T.C.A. § 39-16-403 prohibits abuse of power by a public servant.

Bribery for votes – T.C.A. §§ 2-19-121, 2-19-126, and 2-19-127 prohibit bribery of voters in elections.

Misuse of official information – T.C.A. § 39-16-404 prohibits a public servant from attaining a benefit or aiding another person in attaining a benefit from information which was obtained in an official capacity and is not available to the public.

Ouster law – T.C.A. § 8-47-101 sets out conduct which is punishable by ouster from office, including misconduct in office and neglect of duty.

Open Meetings – T.C.A. § 8-44-101 et seq requires that governmental business be performed in open meetings.

Open Records– T.C.A. § 10-7-503 et seq sets out the requirements that governmental documents be open to the public.



# EXHIBIT 5

STATE OF TENNESSEE  
OFFICE OF THE  
ATTORNEY GENERAL  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

June 6, 2012

Opinion No. 12-60

Application of Open Meetings Act

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QUESTION

Can members of a county or city legislative body share a meal together and casually discuss county or city business and/or issues before their respective legislative bodies under the Open Meetings Act, if the discussion is for informative purposes only and no decisions are reached or attempts made to obtain commitments?

OPINION

The private discussion of public business at a meal by two or more members of a governing body could present the potential issue of whether a chance meeting, or informal assemblage, was used to decide or deliberate public business in circumvention of the spirit or requirements of the Open Meetings Act. Court decisions under the Act are necessarily fact dependent. Nonetheless, to avoid any violation of the Act the best advice is that, while two or more members may share a meal together in which public business is discussed, such discussion should not constitute deliberations, *i.e.*, “examin[ing] and consult[ing] in order to form an opinion . . . weigh[ing] arguments for and against a proposed course of action.” *See Johnston v. Metropolitan Government of Nashville and Davidson County*, 320 S.W. 3d 299, 311 (Tenn. Ct. App. 2009).

ANALYSIS

Your question requires interpretation of the Open Meetings Act, codified at Tenn. Code Ann. §§ 8-44-101 to -111. The Act applies to all meetings of any governing body. Tenn. Code Ann. § 8-44-102(a). The term “governing body” is defined as “the members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.” Tenn. Code Ann. § 8-44-102(b)(1). A “meeting” is defined as the “convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” Tenn. Code Ann. § 8-44-102(b)(2). A “meeting” does not, however, include any on-site inspection of any project or program. *Id.* Furthermore, to balance the policy favoring open government against the need for efficiency in government, the Act recognizes that not every encounter among members of a public body will be considered a meeting but also cautions that such encounters are not to be used to circumvent the Act:

Nothing in this section shall be construed as to require a chance meeting of two (2) or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communications shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part.

Tenn. Code Ann. § 8-44-102(c).

The question posed is whether the members of a city or county legislative body could share a meal together and casually discuss city or county business or issues pending before those legislative bodies without violating the Open Meetings Act. It is difficult to formulate definitive guidelines regarding under what circumstances members of a governing body can privately discuss public business without violating the Open Meetings Act. However, the case law illustrates that the courts will examine the totality of the facts surrounding an alleged violation of the Act to determine whether a violation has occurred.

For example, in *Jackson v. Hensley*, 715 S.W.2d 605 (Tenn. Ct. App. 1986), the Roane County Commission elected one of its members to the position of Trustee of Roane County. The plaintiff alleged the election was void under Tenn. Code Ann. § 8-44-105 because the Commission violated the Open Meetings Act. In rejecting this contention, the Court of Appeals stated:

The record establishes that, upon learning of the vacancy in the trustee's office, Hensley contacted several of his fellow commissioners by telephone, soliciting their vote. In one instance, Hensley visited a commissioner at the latter's home asking for his vote. There was no meeting in the statutory sense until the commission met to elect the new trustee. The chancellor correctly determined that Hensley's solicitations were not "in circumvention of the spirit or requirements" of the Act. As the chancellor observed, Hensley "was doing nothing more than what a private citizen – any individual – would have had the right to do under the same or similar circumstances."

*Id.* at 607.

In *The University of Tennessee Arboretum Society, Inc. v. The City of Oak Ridge*, 1983 WL 825161, (Tenn. Ct. App. May 4, 1983), *cert. denied* (Tenn. Aug. 29, 1983), the Court of Appeals found that a mayor and two city councilmen had not violated the Open Meetings Act when they met with a representative of the Federal Aviation Administration to discuss the funding of an environmental impact statement needed for a proposed municipal report. In affirming the Chancellor's finding that no meeting had occurred in contravention of Tenn. Code Ann. § 8-44-102, the Court noted there was no attempt by the three individuals to make a decision or to deliberate toward a decision as prohibited by the Act. *Id.* at \*2. Rather, the Court concluded the meeting was an effort to gather information necessary for future deliberations with regard to the airport. *Id.*

Other decisions by the Court of Appeals are instructive on the broad question of under what circumstances members of a governing body can privately discuss public business without violating the Open Meetings Act. *See* Op. Tenn. Att'y Gen. 88-169 (Sept. 19, 1988) [citing *Tyler v. Henry County Nursing Home Board of Trustees*, slip op. (Tenn. Ct. App. Jan. 4, 1983) (Act was not violated when four of five Board members were confronted after regular meeting by disgruntled employees and heard their grievances but did not decide to terminate plaintiff until after a hearing on certain charges); *Selfe v. Bellah*, slip op. (Tenn. Ct. App. March 11, 1981) (telephone conversation and chance meeting between city councilmen prior to meeting in which zoning matter was considered did not violate Act when participants did not make a decision, solicit commitments or weigh and consider reasons for and against matter with a view to making a choice or determination)].

More recently, in *Johnston v. Metropolitan Government of Nashville and Davidson County*, 320 S.W.3d 299 (Tenn. Ct. App. 2009), the Court of Appeals addressed the issue of whether email communications among Council members were used to "deliberate public business" in circumvention of the Open Meetings Act. The Court first noted that the Act does not require an intent to circumvent the Act in order to find a violation, *i.e.*, a violation of the Open Meetings Act can occur inadvertently if the electronic communication has the effect of circumventing "the spirit or requirements" of the Act. *Id.* at 312 (citing Tenn. Code Ann. § 8-44-102(c)). The Court then examined whether the emails constituted deliberation, noting that the term "deliberate" had previously been defined as "to examine and consult in order to form an opinion. . . . [T]o weigh arguments for and against a proposed course of action." *Id.* at 311 (quoting *Neese v. Paris Special Sch. Dist.*, 813 S.W.2d 432, 435 (Tenn. Ct. App. 1990), quoting Black's Law Dictionary 384 (5<sup>th</sup> ed. 1979)).

The Court examined three categories of emails. The first category appeared to be merely the dissemination of information, such as emails from affected residents stating their position, that had been forwarded to other Council members. The second category included emails between individual Council members discussing strategy for gaining passage of the legislation in question. The Court found that neither of these emails constituted "deliberation," *i.e.*, "weigh[ing] arguments for and against a proposed course of action." *Id.* at 312.

The third category, however, included emails between Council members in which they were clearly weighing arguments for and against the proposed legislation. These emails, most of which were copied to all Council members, were found to "mirror the type of debate and reciprocal attempts at persuasion that would be expected to take place at a Council meeting, in the presence of the public and the Council as a whole." *Id.* Accordingly, the Court of Appeals found that these emails were "electronic communications . . . used to . . . deliberate public business in circumvention of the spirit or requirements" of the Open Meetings Act. *Id.*

In light of the above authority, the private discussion of public business at a meal by any number of members of a governing body would certainly present the potential issue of whether a chance meeting, or informal assemblage, was used to decide or deliberate public business in circumvention of the Open Meetings Act. Whether a violation occurred would depend upon what was said and what transpired during the meeting. Thus, while the case law does not lend itself to hard and fast rules because the decisions are so fact dependent, some cautious advice readily

appears. While two or more members may share a meal together in which public business is discussed, such discussion should not constitute deliberations, which term has been defined to mean to "examine and consult in order to form an opinion" or to "weigh arguments for and against a proposed course of action." *Johnston v. Metropolitan Government*, 320 S.W.3d at 311.

ROBERT E. COOPER, JR.  
Attorney General and Reporter

WILLIAM E. YOUNG  
Solicitor General

JANET M. KLEINFELTER  
Deputy Attorney General

Requested by:

The Honorable Tony Shipley  
State Representative  
114 War Memorial Building  
Nashville, TN 37243-0102

# EXHIBIT 6

To whom it may concern:

This CD contains some important information about a meeting that needs to be brought to the attention of the citizens of Putnam County.

It is hard to believe that we have elected such morally corrupt and unethical people to run our local government! ENOUGH IS ENOUGH! I call for resignation of every person that you see on this CD!

Sincerely,

Concerned Citizen of Putnam County

**COPY**

# EXHIBIT 7



**PUTNAM COUNTY COMMISSION**  
**Vote Totals**  
**Date: August 20, 2012**

#	Issue	For	Against	Abst	Comments
1	Set County Road Fund at .10	21	3	0	Duncan, Bowman, Burroughs -AGAINST
2	Sports and Recreation Budget at .0550	19	5	0	Ebersole, Burroughs, Savage, Bowman, Atwood- AGAINST
3	Industrial Economic Development Budget at .0300	19	5	0	Ford, Burroughs, Medley, Williams, Bowman - AGAINST
4	Motion to Delete Portion of Sports Council Budget	*	*	*	Motion Made by Williams; Failed for Lack of Second
5	Motion to Amend/School Budget at .9250 instead of .9500	14	10	0	FOR: Ebersole, Short, Gentry, Ford, Ludwig, Savage, Trobaugh, Medley, Neal, Williams, Martin, Duncan, Atwood, Reel AGAINST: Williamson, Burroughs, Randolph, Shanks, Bryant, Blair, Maynard, Bradford, Bowman, Pierce
6	General Purpose School Budget at .9250	17	7	0	FOR: Ebersole, Short, Gentry, Ford, Ludwig, Savage, Trobaugh, Medley, Neal, Williams, Martin, Duncan, Atwood, Reel Williamson, Burroughs, Pierce AGAINST: Randolph, Shanks, Bryant, Blair, Maynard, Bradford, Bowman
7	Cost-Of-Living Raise-Motion to Delete	*	*	*	Motion made by Ebersole and Seconded by Savage WITHDRAWN
8	Sanitation Budget at .1900	20	4	0	Ebersole, Burroughs, Duncan, Bowman - AGAINST
9	General Capital Projects at .0200	21	3	0	Burroughs, Shanks, Bowman -AGAINST
10	Debt Service at .6500	20	4	0	Burroughs, Shanks, Medley, Bowman -AGAINST
11	Tabling Motion re Amendment of Fire Budget	7	16	1	Ludwig, Randolph, Trobaugh, Bryant, Blair, Bradford, Pierce -FOR; Shanks ABSTAIN
12	Vote on the Amended Fire Budget	17	6	1	Savage, Bryant, Blair, Bradford, Bowman, Pierce - AGAINST
13	Motion to Amend Maintenance Funding out of Sheriff's Department	19	3	2	Medley, Bryant, Blair -AGAINST; Shanks and Trobaugh-ABSTAIN
14	County General at .8350	21	2	1	Savage, Shanks-AGAINST; Trobaugh -ABSTAIN
15	Various Funds	22	2	0	Burroughs, Bowman -AGAINST
16	Delete UCHRA funding	8	16	0	Motion made by Tom Short and seconded by Jonathan Williams; AGAINST: Ford, Williamson, Ludwig, Randolph, Savage, Trobaugh, Bryant, Blair, Maynard, Bradford, Martin, Duncan, Bowman, Pierce, Atwood, Reel ; FOR: Ebersole, Short, Gentry, Burroughs, Shanks, Medley, Neal, Williams
17	Original Motion For Nonprofits	22	2	0	Burroughs, Medley -AGAINST
18	Proposed Tax Rate at \$2.805	18	6	0	Ebersole, Burroughs, Savage, Shanks, Medley, Bowman -AGAINST
19	Resolution for Various Funds	22	2	0	Burroughs, Bowman -AGAINST
20	Resolution General Purpose School Fund	22	2	0	Burroughs, Bowman -AGAINST
21	Resolution for Nonprofits	22	2	0	Burroughs, Bowman -AGAINST
22					
23					
24					

# EXHIBIT 8

## Herald-Citizen Archives

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

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**About your archives purchase:** Your purchase of 3 articles expires on 12/10/2012 18:01 PM. You have viewed 1 articles and have 2 articles remaining.

The article you requested is displayed below.

### Gathering of commissioners questioned

**Date:** August 31, 2012 **Section:** News,homefirstleft


PUTNAM COUNTY -- A private Saturday gathering of several county commissioners in the days before one of the most watched commission meetings of the year has been called into question by other commissioners and a formal complaint about that meeting has been filed with the county attorney. The questioned event took place on the morning of Saturday, Aug. 18, at the office of District 2 Commissioner Robert Duncan where a group of nine commissioners came together on their own, without notice to all members of the commission or to the public. The following Monday, Aug. 20, the full commission met in public session to vote on the 2012-13 fiscal year budget which consisted of a tax increase of 15.99 cents. Those who attended the meeting, including District 2 Commissioner Jim Martin, District 1 Commissioners Scott Ebersole and Tom Short, District 4 Commissioners Ron Williamson and John Ludwig, District 8 Commissioner Sue Neal, District 9 Commissioner Jonathan Williams, and District 12 Commissioner Mike Atwood, say they came together with the intent of being as informed as possible at the commission meeting the following Monday where votes were cast on the county budget. The gathering, they say, was strictly about sharing information. Commissioner Duncan could not be reached for comment. But other commissioners, including budget committee chair District 5 Commissioner Terry Randolph, say that meeting was unfair. According to Randolph, any commissioner with questions or concerns about the county budget had the opportunity to ask those questions in the numerous, lengthy meetings of the budget committee which were open to all members of the commission, the press and the public. "The floor was open for any discussion on all the budget. We met long hours and they (the commissioners) had lots of discussion and they had lots of questions," Randolph said of the budget committee's meetings. "Anyone who wanted to ask questions or have input on the budget could have come to the budget committee meetings." Tennessee's **Sunshine Law** states: "The general assembly hereby declares it to be the policy of this state that the formation of public

policy and decisions is public business and shall not be conducted in secret. All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee." Commissioners who attended the meeting insist they did not violate the **Sunshine Law** as the meeting was strictly for informational purposes. Since the commission voted against holding regular work sessions unless called by the county executive some months ago, some commissioners who attended the Saturday meeting say they felt like it was needed in place of the regular work sessions. They needed to come together, they say, to gather information before casting a vote. "There are 24 county commissioners, and a majority of them feel that they are given adequate information, and most of them would call the office prior to a meeting to request more if they felt they needed it," County Executive Kim Blaylock said. "If some feel they need more information, all they have to do is ask." But some commissioners say communication between county officials and the commission is inadequate. "One of the ways we've been compensating for the lack of communication from the courthouse is informal group discussions," Jonathan Williams said. "These meetings are for open discussion of whatever comes to mind. To my knowledge, there is never a quorum present, never a formal agenda and no decisions are made. They are simply brainstorming sessions, and I do not believe they violate the **Sunshine Law**." "As far as communication goes, they all have each others contact information as well as my own," Blaylock said. "In regard to work sessions, the majority of the commission feels that work sessions aren't necessary because we already have a committee process in place." In February, a motion to end the regular work sessions unless called by the county executive passed with 15 commissioners voting in favor of ending regular work sessions and nine voting against the item. Commissioner Jim Martin offered a description of the meeting similar to Williams' explanation, likening it to the kind of casual discussion that happens among commissioners before meetings begin. Commissioner Scott Ebersole said, "Basically I was there just to learn about the budget because the way the process worked, I was just trying to get myself up to speed about what was going on." Ebersole said he received an e-mail notifying him that the gathering would happen. Reportedly, that e-mail was not sent to all county commissioners. "I meet with commissioners all the time, there is no question about that, and certainly at budget time there are discussions that have to be held. There is no violation of any **Sunshine Law** whatsoever," Commissioner Mike Atwood said. "In order to facilitate information, or the sharing of information, we meet from time to time for lunches, for other activities and so forth. The sharing of information is what goes on at times like that." The private gathering did prompt some contention between commissioners at the Aug. 20 meeting, Commissioner Terry Randolph said. "I represent my people," he said. "My people deserve for me to have an equal and a fair vote on anything that comes up." Discussion and information being shared individually among small groups of the commission

takes away from that equal and fair voting process, Randolph said. Tennessee's **Sunshine Law** defines a governing body as "the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration." Meeting "means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter," according to the law. The law does state that a chance meeting of two or more members of a public body should not be considered a public meeting. However, "no such chance meetings, informal assemblages, or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part," the **Sunshine Law** states. "For those who may be concerned about commissioners getting together like this, I can only say that they are not 'secret' meetings and we aren't plotting strategy or deciding votes," Commissioner Williams said.


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## Video Shows Some Putnam Commissioners Meeting Privately

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Posted: Sep 05, 2012 7:00 PM CDT  
Updated: Sep 06, 2012 1:21 PM CDT



by Marcus Washington

**COOKEVILLE, Tenn.** - A group of county commissioners in the mid-state could be in hot water after video shows many of them meeting privately before a big county vote. The meeting in question has many wondering if a state law was broken.

A trip to the post office for Putnam County Clerk Wayne Nabors was anything but normal when he received this letter sent to him with no return address. Inside were a DVD and a letter reading, "To whom it may concern. This CD contains some important information that needs to be brought to the attention of the citizens of Putnam County," said Nabors.

Once back at his office, Nabors watched the DVD that shows 9 of the 24 county commissioners coming out of Commissioner Bob Duncan's Cookeville office.

In each one of the commissioners' hands, was the highly debated county 2012-2013 budget.

"At that point I contacted Ms. Blaylock, the county executive, and had her come down and take a look at it," said Nabors.

The time stamp on this video showed it was recorded on August 18 around 11 a.m., just two days before the commission voted to raise property taxes by nearly 16-cents.

County Commissioner Marsha Bowman said if business concerning the county budget was discussed, the Tennessee Sunshine Law would have been broken. The law basically states that public business cannot be discussed by elected officials in private.

"It's made the people in our districts question us now, if we're all breaking the Sunshine Law. Are we having secret meetings? Are we making decisions before we come to the public? It shouldn't be like that," said Bowman.

Ironically, the same nine commissioners caught on video attending the meeting, voted against an act in February to stop all work sessions unless they are called by the county executive or commission chair.

Commissioners Bob Duncan, Jim Martin, Tom Short, Scott Ebersole, Ron Williamson, John Ludwig, Sue Neal, Jonathan Williamson and Mike Atwood were at the August 18 meeting.

With questions still unanswered, many of commissioners said the trust and respect as been broken.

"I will question every decision they make now. Have you had another meeting and set this up and not doing this correctly," said Bowman.

A petition is scheduled to be signed tomorrow by concerned commissioners, and sent to the Putnam County Ethics Committee.

At least two of the five member committee will not vote on the matter, because of their relation to county commissioners in question.



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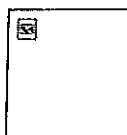


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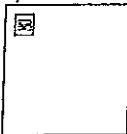
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**Titans Lose Another Starter For Season To Injury**

Updated: Dec 03, 2012 5:14 PM CST

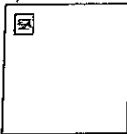


The Tennessee offensive line is what Coach Mike Munchak calls a "work in progress" now that right tackle David Stewart is the third starter lost to injury.

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**Last Lawsuit Against Mount Zion Church Dropped**

Updated: Dec 03, 2012 5:09 PM CST

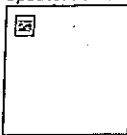


Weeks after one plaintiff dropped his complaint against Mt. Zion Baptist Church, word has come that the one remaining case will be dismissed.

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**CDC Says US Flu Season Starts Early, Could Be Bad**

Updated: Dec 03, 2012 5:00 PM CST

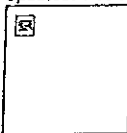


Flu season in the U.S. is off to its earliest start in nearly a decade -- and it could be a bad one.

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**Williamson Co. Deputy, Two Others Injured In Crash On I-65S**

Updated: Dec 03, 2012 4:47 PM CST

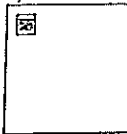


A Williamson County Sheriff's deputy, an out-of-state officer, and another driver were injured in a crash on Interstate 65 near Spring Hill on Monday morning.

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Updated: Dec 03, 2012 3:24 PM CST



A former employee of a La Vergne used auto parts store has been accused of stealing hundreds of thousands of dollars from the business.

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### Commissioners appealing to ethics committee on private meeting

Date: September 7, 2012 Section: News,homefirstleft

PUTNAM COUNTY -- Concern about a private meeting of nine county commissioners the Saturday before the full commission came together to vote on the county budget has prompted an appeal to the county ethics committee. Ten commissioners have signed a letter of complaint on the matter. "We would like to formally file a complaint stating a violation of the **Sunshine Law** as well as an ethic violation happened at this meeting," the letter states. "We want to go on record stating that the commissioners listed above have violated the trust and respect of the governing body of Putnam County Tennessee." The questioned event took place on Saturday, August 18. The letter names District 1 Commissioners Scott Ebersole and Tom Short, District 2 Commissioners Robert Duncan and Jim Martin, District 4 Commissioners Ron Williamson and John Ludwig, District 8 Commissioner Sue Neal, District 9 Commissioner Jonathan Williams, and District 12 Commissioner Mike Atwood as those who attended the private gathering. Those commissioners said they were made aware that a group of commissioners would be coming together that Saturday at the office of Commissioner Robert Duncan by e-mail. The meeting, they say, was strictly informational. "It was kind of a work session," Commissioner Duncan said. "Most of the people who were there were the ones who voted against eliminating the work sessions." In February, the county commission voted to end regular work sessions once held in the days before the commission meeting where commissioners could gather information and ask questions about agenda items. Fifteen commissioners voted in favor of ending those sessions unless called by the county executive. "With a nearly six percent increase in the property tax rate, the ones of us who were not on budget (committee) were trying to determine what was in there," Duncan said. The e-mail notification of the meeting was not received by all of the commission members and no public notice of the meeting was given. A package with no return address was sent to the Herald-Citizen containing a video recording of the nine commissioners



leaving Duncan's office that day. The package also contained a letter signed "The Concerned Citizens of Putnam County." Commissioners signing the letter of complaint include District 3 Commissioners Jerry Ford and David Gentry, District 5 Commissioners Terry Randolph and Anna Ruth Burroughs, District 6 Commissioner Reggie Shanks, District 7 Commissioners Joe Trobaugh and Michael Medley, District 8 Commissioner Eris Bryant, District 9 Commissioner Daryl Blair, and District 11 Commissioner Marsha Bowman. "There are twenty-four commissioners who have a deciding vote on all issues," the letter states. "That was taken away when that group met. Were decision(s) made on how to change a budget and override the decision of the budget committee? What we do know is, it was wrong!" Tennessee's open meetings law, called the **Sunshine Law**, states: "The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret. All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee." Members of the county's ethics committee include Judge Nolan Goolsby, District 10 Commissioner Kevin Maynard, District 4 Commissioner Ron Williamson, District 10 Commissioner Kim Bradford, and Sandra Martin. However, Williamson was at the meeting in question and Sandy martin is the wife of Commissioner Jim Martin who also attended the meeting. No meeting of that committee had been set as of Friday at press time.

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### Ethics complaint sent to county attorney

Date: November 14, 2012 Section: News,homefirstleft

PUTNAM COUNTY — A complaint filed against some county commissioners claiming a violation of the state's **Sunshine Law** and an ethics violation has been sent to the county attorney for review. The complaint stems from a gathering of commissioners held on the Saturday prior to the August full commission meeting where the county's budget was considered and approved. That day, nine commissioners met at the office of District 2 Commissioner Robert M. Duncan in what they describe as an informal gathering to collect information before the vote.

Those attending that meeting included District 1 Commissioners Scott Ebersole and Tom Short, District 2 Commissioners Robert Duncan and Jim Martin, District 4 Commissioners Ron Williamson and John Ludwig, District 8 Commissioner Sue Neal, District 9 Commissioner Jonathan Williams, and District 12 Commissioner Mike Atwood. Contending that the meeting was strictly informational and no decisions were made, those commissioners say they did nothing wrong.

However, other commissioners say they knew nothing of the meeting and no public notice of the event was given. Therefore, some commissioners feel that it was inappropriate for such a meeting to go on in private, especially just before one of the biggest votes the current commission has taken. At the August meeting of the full commission, a 15.99 cent property tax increase was approved for the county.

"We would like to formally file a complaint stating a violation of the **Sunshine Law** as well as an ethic violation happened at this meeting," a letter of complaint, signed by 10 county commissioners, sent to the county's ethics committee regarding the event, states. "We want to go on record stating that the commissioners listed above have violated the trust and respect of the governing body of Putnam County

Tennessee.”

Commissioners signing the letter of complaint included District 3 Commissioners Jerry Ford and David Gentry, District 5 Commissioners Terry Randolph and Anna Ruth Burroughs, District 6 Commissioner Reggie Shanks, District 7 Commissioners Joe Trobaugh and Michael Medley, District 8 Commissioner Eris Bryant, District 9 Commissioner Daryl Blair, and District 11 Commissioner Marsha Bowman.

“There are 24 commissioners who have a deciding vote on all issues,” the letter states. “That was taken away when that group met. Were decision(s) made on how to change a budget and override the decision of the budget committee? What we do know is, it was wrong!”

The county’s ethics committee finally came together to meet on the item this week.

The committee was recently reappointed and now has four members: District 10 Commissioners Kevin Maynard and Kim Bradford, Register of Deeds Harold Burris, and current regional planning commissioner Jerry Mason. The committee normally consists of five members, but a third commissioner willing to sit on the committee has not come forward.

Mason made a motion to turn the item over to County Attorney Jeff Jones to look into, bringing more information back to the committee for further consideration.

That motion passed unanimously.

The committee did not set a timeline for collecting that information, but said they were confident that the county attorney would get back with them in a timely manner.

Tennessee’s open meetings law, called the **Sunshine Law**, states: “The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.

All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee.”

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